

PDO20105.TXT

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2 *NEW YORK CITY POLICE DEPARTMENT*

3 *DEPUTY COMMISSIONER OF TRIALS*

4

5 *One Police Plaza*
6 *New York, New York*

6

7 *Date: February 1, 2005*
8 *Time: 10:25 o'clock a.m.*

7

8
9 *RESPONDENT: DET. LISSANDER DONES*

9

10 *CASE NO.: 80292/04*

10

11 *REPORTER: STEVEN KLEIN*

11

12 *A P P E A R A N C E S:*

12

13 *BEFORE: COMMISSIONER ROBERT W. VINAL*

13

14 *FOR THE DEPARTMENT: NATALIE BAPTISTE, ESQ.*

14

Department Advocate's
Office

15

16 *FOR THE RESPONDENT: KARASYK & MOSCHELLA, LLP*

16

225 Broadway
New York, New York 10007

17

18 *BY: PHILIP KARASYK, ESQ.*

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23 *TANKOOS REPORTING COMPANY, INC.*

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2 *(Time noted: 10:25 o'clock a.m.)*

3 *P.O. GAMRAT: Calling Case No. 80292 of*

4 *2004, Detective Lissander Dones.*

5 *MR. KARASYK: For the Detective, Philip*

6 *Karasyk.*

7 *MS. BAPTISTE: Ms. Baptiste, of the*

8 *Department Advocate's office.*

9 *COMM. VINAL: Good morning.*

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10 *Will counsel approach for a moment.*

11 *(Bench conference held.)*

12 *COMM. VINAL: We will take a short*
13 *recess.*

14 *(Recess had.)*

15 *COMM. VINAL: Back on the record.*

16 *Before we proceed to opening statements,*
17 *Ms. Baptiste indicated that the Department is*
18 *seeking to amend Specifications 4 and 5 to change*
19 *the date indicated in each of those*
20 *specifications from November 28, 2004, to*
21 *November 28, 2003.*

22 *Is that correct?*

23 *MS. BAPTISTE: Yes.*

24 *COMM. VINAL: Apparently, there was a*
25 *clerical error.*

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2 *Any objection?*

3 *MR. KARASYK: No.*

4 *COMM. VINAL: Okay.*

5 *Specifications 4 and 5 are so amended.*

6 *We have a total of five specifications,*

7 *and I will further note that it was mentioned at*

8 *the bench conference that with regard to*

9 *Specification No. 3, a Bill of Particulars was*

10 *served by the Department on the Respondent, and*

11 *counsel can make reference, obviously to that*

12 *during the course of the trial.*

13 *If there are no further preliminaries,*

14 *let's move directly to opening statements.*

15 *Ms. Baptiste.*

16 *I'm pronouncing your name correctly?*

17 *MS. BAPTISTE: Yes.*

18 *COMM. VINAL: I wanted to make sure.*

19 *MS. BAPTISTE: Good morning,*

20 *Commissioner, Mr. Karasyk.*

21 *You Honor, today the evidence will*

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22 demonstrate how Detective Dones, Lissander Dones,
23 compromised the integrity of an open Internal
24 Affairs investigation, and thereby threatened the
25 integrity of the Police Department.

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2 On or about and between November 26,
3 2003, and November 28, 2003, Detective Dones,
4 while at work, learned about a far-reaching
5 Internal Affairs investigation into a friend of
6 his, Detective Vasquez.

7 Detective Dones, a seasoned member of
8 the Internal Affairs Bureau, admits that he took
9 this information and discussed it with another
10 member of the service outside of the Internal
11 Affairs Bureau, who was also a friend of
12 Detective Vasquez, the subject of a far-reaching

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13 *criminal investigation.*

14 *The evidence will further show that*

15 *Detective Dones used a Department vehicle without*

16 *permission to go to work on November 28, 2003,*

17 *and going into the IAB computer system, using his*

18 *code to review information about the case*

19 *involving Detective Vasquez and other officers*

20 *who may have been involved in the case, even*

21 *though he was not assigned to that case.*

22 *The evidence will finally show that*

23 *during his GO-15 official interview, Detective*

24 *Dones made false statements regarding his*

25 *knowledge of having made prior statements during*

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2 *the investigation. Those statements referred to*

3 *are the ones made by Mr. Dones in July of 2004 to*

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4 *Federal Agents, while an Internal Affairs*

5 *investigator was present.*

6 *The evidence will show that Detective*

7 *Dones' actions compromised the integrity of an*

8 *open investigation, and thereby compromised the*

9 *integrity of the Police Department.*

10 *And at the end of the presentation of my*

11 *case, I will ask you to find such.*

12 *Thank you.*

13 *COMM. VINAL: Thank you.*

14 *Mr. Karasyk.*

15 *MR. KARASYK: Commissioner, Detective*

16 *Dones is a twenty-year veteran with the New York*

17 *City Police Department. He has a spotless*

18 *record. His disciplinary record is absolutely*

19 *zero, with the exception of two CD's for minor*

20 *violations during his entire career.*

21 *The Department, I submit to you, will*

22 *not be able to prove by any direct evidence*

23 *whatsoever, either eyewitness or testimonial,*

24 *that Detective Dones in any way compromised this*

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25 investigation.

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2 In fact, there is a paucity of such
3 evidence in their investigative file.

4 After you have heard all the evidence,
5 and had a chance to evaluate the facts, I am
6 certain that you will find him not guilty.

7 I will also add that you will hear from
8 the Department's own witnesses the manner in
9 which Detective Dones' rights, rights guaranteed
10 to him under GO-15, PG 206-13, were abused, how
11 evidence that the Department will seek to
12 introduce was obtained in direct violation of
13 Detective Dones' PG 206-13 rights, and the Court
14 will be called upon at the conclusion to preclude
15 such evidence.

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16 *Without such evidence, the Department*
17 *will be unable to prove its case.*
18 *Thank you.*
19 *COMM. VINAL: Thank you.*
20 *The Department has a witness to call?*
21 *MS. BAPTISTE: Yes.*
22 *Your Honor, the Department's witnesses*
23 *just walked into the door. I haven't had an*
24 *opportunity to talk with them at all.*
25 *COMM. VINAL: That is supposed to happen*

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2 *before the trial.*
3 *It is ten after eleven. I understand*
4 *the witnesses were late in arriving, but at this*
5 *point, I'm going to ask you to please call the*
6 *witness.*

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7 *MS. BAPTISTE: All right.*

8 *The Department calls Detective Clohessy.*

9 *COMM. VINAL: The witness you just*
10 *called, will he be testifying to any specific*

11 *specification, or all of them?*

12 *MS. BAPTISTE: He will be testifying in*
13 *reference to Specification No. 4. He will be*
14 *testifying in general about other matters, as*
15 *well.*

16 *COMM. VINAL: Place your left hand on*
17 *the Bible, raise your right hand.*

18 *Do you swear the testimony you are about*
19 *to give will be the truth, the whole truth, and*
20 *nothing but the truth, so help you God?*

21 *THE WITNESS: I do.*

22 *COMM. VINAL: Have a seat.*

23 *P.O. GAMRAT: For the record, please*
24 *state your name, your rank, your shield number*
25 *and your current command.*

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1 Clohessy - Direct

2 THE WITNESS: Detective Michael

3 Clohessy, Shield 1506, Internal Affairs, Group

4 51.

5 MS. BAPTISTE: May I inquire, your

6 Honor?

7 COMM. VINAL: Group 51, you said?

8 THE WITNESS: Yes.

9 COMM. VINAL: Your witness.

10 MS. BAPTISTE: Thank you.

11 DIRECT EXAMINATION

12 BY MS. BAPTISTE:

13 Q Good morning.

14 A Good morning.

15 Q Detective, how long have you been a
16 member of the New York City Police Department?

17 A About eighteen-and-a-half years.

18 Q And you are currently assigned to

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19 Internal Affairs Bureau 51?

20 A Yes.

*21 Q And how long have you been at Internal
22 Affairs Bureau 51?*

23 A About ten-and-a-half years.

*24 Q Please describe your duties and
25 responsibilities.*

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1 Clohessy - Direct

*2 A I'm assigned to the Bronx team. I
3 investigate people who impersonate Police Officers
4 when they commit crimes.*

*5 Q Approximately how many investigations
6 have you been a part of over your ten-and-a-half year
7 time at Internal Affairs? Just an approximate
8 number.*

9 A A few hundred, approximately forty-five

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10 per year.

11 Q As a member of the Internal Affairs
12 Bureau – and you said you have done about hundreds
13 of investigations – what measures do you take to
14 make sure information about your case does not get
15 out to other members of the service?

16 A Well, when a case is assigned to us,
17 it's usually assigned from the supervisor of each
18 team.

19 Q Who is the supervisor of your team?

20 A Sergeant Garland.

21 Q Continue.

22 A The case would pretty much either sit on
23 my desk, or would be in a file cabinet in the back.
24 Most often, it's sitting on my desk.

25 Q As you are conducting an interview, are

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1 *Clohessy - Direct*

2 *there certain steps that you take, or procedures that*
3 *you do, that are known to the Department, so other*
4 *members of the service don't find out about this*
5 *investigation?*

6 *MR. KARASYK: Objection, Commissioner,*
7 *it's leading.*

8 *It's also immaterial.*

9 *COMM. VINAL: I will allow a certain*
10 *amount of background as to the internal*
11 *procedures.*

12 *The question is, are you familiar with*
13 *IAB's security procedures, so that no one can*
14 *find out what is being investigated, who is being*
15 *investigated?*

16 *A Yes, I am.*

17 *Q Can you please explain it.*

18 *A In the Impersonation Unit, it is kind of*
19 *unique for IAB, because we are not doing internal*
20 *cases. Most of our subjects that we are looking for*
21 *are criminals, they are not members of the service.*

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22 *So it is not unlikely for me to go into*

23 *different Detective squads, or other units outside*

24 *Internal Affairs, and speak with people.*

25 *Q But that is because you deal with people*

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1 *Clohessy - Direct*

2 *outside of the service, outside of members of the*

3 *service?*

4 *A Yes, that's correct.*

5 *Q Who is your partner?*

6 *A Currently?*

7 *Q Yes.*

8 *Who was your partner?*

9 *COMM. VINAL: Not currently.*

10 *A It was –*

11 *COMM. VINAL: Give a time frame.*

12 *Q During the year of 2003.*

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13 A *Detective Dones.*

14 Q *And approximately how long was he your*
15 *partner?*

16 A *Approximately a year, year-and-a-half.*

17 Q *How long, in general, have you known*
18 *Detective Dones in any other capacity besides work?*

19 A *When he came to the unit, about a*
20 *year-and-a-half.*

21 Q *Turning your attention to November 26,*
22 *2003, did you become aware of a call-out involving a*
23 *Detective Vasquez?*

24 A *I was aware of a call-out, I wasn't*
25 *aware that Detective Vasquez was the subject of that*

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1 *Clohessy - Direct*

2 *call out.*

3 Q *Describe a call-out.*

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4 A *I was down in the 1st Precinct on an*
5 *unrelated call-out.*

6 Q *Who were you there with?*

7 A *I was there with Detective Dones, and I*
8 *believe Sergeant Schumacher.*

9 Q *Okay.*

10 *Continue.*

11 A *We were on another call-out, unrelated*
12 *to Detective Vasquez.*

13 *Somewhere in the night, I heard about*
14 *this other incident going on out in Queens.*

15 Q *And that incident would be what?*

16 A *That was with Detective Vasquez.*

17 Q *And what specifically did you hear?*

18 A *That there was a rip-off somewhere out*
19 *in Queens, and OCID –*

20 Q *What does that stand for?*

21 A *Organized Crime – I don't really know.*

22 MR. KARASYK: *OCID?*

23 THE WITNESS: *Yes.*

24 MR. KARASYK: *Organized Crime*

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25 *Investigation Division.*

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1 *Clohessy - Direct*

2 *THE WITNESS: Thank you.*

3 *Q Do you recall what you did after hearing*
4 *the call-out, or what happened next?*

5 *A We were in 1st Precinct, and we were*
6 *involved in an investigation. I'm not too sure if*
7 *there was an arrest there.*

8 *It basically took up our whole day.*

9 *Q And that was at the 1st Precinct?*

10 *A Yes.*

11 *Q Detective Clohessy – am I saying that*
12 *right?*

13 *A Yes.*

14 *Q – does the Bronx team have a car*
15 *assigned to it?*

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16 A Yes.

17 Q Who is on that Bronx team, aside from
18 yourself?

19 A Detective Dones.

20 Q What is your car number?

21 A 169.

22 Q And describe the car that is assigned to
23 you and Detective Dones.

24 COMM. VINAL: And we are referring now
25 to November, 2003, Ms. Baptiste?

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1 Clohessy - Direct

2 MS. BAPTISTE: Yes.

3 COMM. VINAL: Just so that the record is
4 clear.

5 MS. BAPTISTE: Yes.

6 COMM. VINAL: Back in November, 2003.

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- 7 A *It's a black Chevy Impala.*
- 8 Q *Who has the keys to the car?*
- 9 A *Myself and Detective Dones.*
- 10 Q *And who was the car technically assigned*
11 *to?*
- 12 A *Me.*
- 13 Q *Now, what was the purpose of assigning a*
14 *car to two investigators such as yourself? What were*
15 *you supposed to use it for?*
- 16 A *For investigations.*
- 17 Q *Only?*
- 18 A *Yes.*
- 19 Q *Were you allowed to use the car for*
20 *personal errands at all?*
- 21 A *No.*
- 22 Q *And what were your responsibilities*
23 *regarding where the car was to be parked or stored?*
- 24 A *The car is parked at the 48th Precinct.*
- 25 Q *Now, how did you become aware of that?*

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1 *Clohessy - Direct*

2 *How did you know that the car was supposed to be*
3 *stored at the 48th?*

4 A *Well, since I have been in Internal*
5 *Affairs, in this group, for the last ten-and-a-half,*
6 *eleven years, I had a car assigned to me. The car*
7 *was always parked at the 48th Precinct.*

8 COMM. VINAL: *Is that where Bronx*
9 *Inspections is located?*

10 THE WITNESS: *Yes.*

11 COMM. VINAL: *Within that station house?*

12 THE WITNESS: *Yes.*

13 Q *Would you say it was common knowledge*
14 *that you knew the car was not supposed to be used for*
15 *personal errands?*

16 A *That's correct.*

17 Q *How did you come to know that?*

18 A *I believe it's Department policy.*

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19 *Q* *How did you come to know that the*
20 *vehicle assigned to you was only supposed to be used*
21 *for investigative purposes?*

22 *A* *It has been the policy of the office to*
23 *leave that car at the 48th Precinct, and it is only*
24 *going to be used for official business.*

25 *Q* *And that is common knowledge?*

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1 *Clohessy - Direct*

2 *A* *Yes, it is.*

3 *Q* *Detective, is there an E-ZPass in the*
4 *car?*

5 *A* *Yes, there is.*

6 *Q* *Turning your attention to November 28,*
7 *2003, were you working on that day?*

8 *A* *November 28th?*

9 *Q* *Of 2003.*

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10 *COMM. VINAL: You have already testified*

11 *that this is regarding – I believe that date was*

12 *previously mentioned – and you indicated that*

13 *you were at the 1st Precinct.*

14 *MS. BAPTISTE: No, that was November*

15 *26th.*

16 *COMM. VINAL: I thought I heard 28.*

17 *Okay.*

18 *That was November 26th?*

19 *MS. BAPTISTE: Yes.*

20 *COMM. VINAL: Okay.*

21 *Now we are going to November 28th, two*

22 *days later?*

23 *MS. BAPTISTE: Yes.*

24 *A What day was that?*

25 *MR. KARASYK: Friday.*

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1 *Clohessy - Direct*

2 *A Friday?*

3 *Q Yes.*

4 *A No, I was off that day.*

5 *Q That was your RDO?*

6 *A I don't know if it was my RDO, but I was*
7 *off that day.*

8 *Q You know you weren't working?*

9 *A Yes.*

10 *Q Did you use the car that day?*

11 *A No, I didn't.*

12 *Q You are sure you did not use the car on*
13 *November 28, 2003, Car No. 169, you didn't use it*
14 *that day?*

15 *A No.*

16 *Q And who else had the keys to the car*
17 *besides yourself?*

18 *A Detective Dones.*

19 *Q Do you have a personal computer code?*

20 *A Yes, I do.*

21 *Q And is that personal computer code*

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22 something separate and distinct from your tax code,

23 or is it your tax code?

24 A Some codes are part of my tax number.

25 Q Your computer code, that is a separate

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1 Clohessy - Direct

2 number from your tax code?

*3 A It depends what you are trying to get
4 into.*

*5 In some applications, my tax code is
6 part of the computer code.*

*7 Q When you say part of it, you would also
8 have to put in your tax code and your computer code,
9 to get access to what you want?*

10 A Yes.

*11 Q Just so we are clear, your computer code
12 is a separate number from your tax code?*

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13 A *To access the computer, I would have a*
14 *separate code, other than my tax, yes.*

15 Q *Okay.*

16 *COMM. VINAL: This computer code, is*
17 *this an IAB assigned code, or a code that all*
18 *members have?*

19 *THE WITNESS: An IAB assigned code.*

20 Q *Is that assigned specifically to you?*

21 A *Yes, it is.*

22 *COMM. VINAL: So I am clear, it is to*
23 *access IAB records, specifically, this computer*
24 *code that you are referring to?*

25 *THE WITNESS: It can access IAB records,*

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1 *Clohessy - Direct*

2 *or any Department records.*

3 Q *Detective, how many people know your*

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4 computer code?

5 A The only one that would have access to

6 the code would be Detective Mounts.

7 COMM. VINAL: Spell that name.

8 THE WITNESS: M-o-u-n-t-s.

9 Q Why would he have access to it?

10 A He is the Land Manager for the office.

11 Q Does Detective Dones have your computer

12 code number?

13 A No.

14 Q Have you ever given your computer code

15 number to anyone?

16 A No.

17 Q How many times have you logged onto the

18 computer using someone else's computer code?

19 A I don't believe I have ever done that.

20 Q Why have you not done that?

21 A I have my own code.

22 Q Detective, turning your attention back

23 to November 28, 2003.

24 A Yes.

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25 *Q Did you access the computer, the IAB*

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Q

20

1 *Clohessy - Direct*

2 *computer, using your partner, Detective Dones', code?*

3 *A No.*

4 *Q Have you ever accessed the IAB computer*

5 *using your partner, Detective Dones', code?*

6 *A No.*

7 *Q Detective, have you ever looked up any*

8 *information in the IAB log involving that case which*

9 *you got the call-out about involving Detective*

10 *Vasquez?*

11 *A No.*

12 *Q Detective, how often is it that you look*

13 *up a case assigned to another Internal Affairs*

14 *Bureau?*

15 *A Assigned to another group?*

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16 Q Yes.

17 A Outside 51?

18 Q Outside 51, yes.

19 A Rarely, if ever.

20 Q And is it commonplace that Detectives do
21 not give out their computer codes?

22 MR. KARASYK: Objection, "commonplace."

23 COMM. VINAL: We are talking about
24 procedures, as opposed to commonplace.

25 Q Is it a known procedure or regulation

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21

1 Clohessy - Cross

2 not to give out your computer code to other members
3 of your department?

4 A Yes, it is.

5 MS. BAPTISTE: No further questions.

6 COMM. VINAL: Cross-examination?

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7 CROSS-EXAMINATION

8 BY MR. KARASYK:

9 Q Good morning, Detective.

10 A Good morning.

11 Q My name is Philip Karasyk, and I

12 represent Detective Dones.

13 Detective, Ms. Baptiste asked you

14 whether it is commonplace for one Detective to give

15 out his computer code to another Detective, and you

16 answered "no," correct?

17 A That's correct.

18 Q Does it occur during your workday that

19 you could be working on a computer under your code,

20 and another Detective can come up to you and ask you

21 to run a certain log for him, because he hasn't had

22 the opportunity to log in himself? Has that ever

23 happened?

24 A Yes, it does.

25 Q And it is true, is it not, that when

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1 *Clohessy - Cross*

2 *there are Detectives working on the computer under*
3 *their code, there are times when another Detective*
4 *who has not logged in will ask that Detective who has*
5 *logged in to run certain information for him on an*
6 *investigation that that Detective is working on,*
7 *correct?*

8 A *That's correct.*

9 Q *And it is also true that when you are*
10 *the Detective who is operating the computer, and you*
11 *run that log, that may not be a case that you are*
12 *working on yourself; isn't that true?*

13 A *That's correct.*

14 Q *So there are times when you can be*
15 *working on a case, you can be working on the*
16 *computer, and you can be asked to run logs on cases*
17 *that you, yourself, are not working on, correct?*

18 A *Correct.*

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19 Q *Is it also true, Detective, based on*
20 *your experience, that in your command there are times*
21 *when members of the service fail to log off the*
22 *computer system, and just leave the computer system*
23 *engaged in IA-Pro for example?*

24 A *Yes.*

25 Q *When they fail to log off, anybody with*

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Q

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1 *Clohessy - Cross*
2 *knowledge or how to operate IA-Pro can come over and*
3 *access logs under that Detective's ID; isn't that*
4 *true?*

5 A *Yes.*

6 Q *That can happen even when that Detective*
7 *whose ID number is being used is not even there; is*
8 *that correct?*

9 A *Yes.*

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10 Q *As a matter of fact, based on your*
11 *experience, that is not an uncommon event for*
12 *Detectives to forget to log out at IA-Pro?*

13 A *Sometimes it happens, yes.*

14 Q *You were not working on the 28th?*

15 A *Right.*

16 Q *You don't know what transpired in the*
17 *command that day?*

18 A *No.*

19 Q *You don't know who was there, who wasn't*
20 *there?*

21 A *Yes.*

22 Q *Now, can you just for a moment describe*
23 *the command, the physical layout of the command, for*
24 *us. Is it one room where everybody works? How is*
25 *it?*

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1 *Clohessy - Cross*

2 *A It's basically two rooms where the*
3 *Detectives sit.*

4 *When you first walk in the office, to*
5 *the left-hand side there are three desks, assigned to*
6 *three Detectives, and four computers along the wall.*

7 *Then the main Detective office, there*
8 *are eleven desks where Detectives are assigned, and*
9 *three computer terminals.*

10 *Q And where was Detective Dones' desk, in*
11 *which of those rooms?*

12 *A His desk was in the back and side,*
13 *against the window.*

14 *Q In the second room?*

15 *A In the main Detective room.*

16 *Q In the main Detective room?*

17 *A Yes.*

18 *Q Now, would it be possible for someone to*
19 *come into that main Detective room and fail to see*
20 *Detective Dones, if he was sitting at his desk at the*
21 *computer? Is it wide open space?*

PDO20105.TXT

22 A Yes, it is opened up.

23 Q So if someone was sitting at their desk

24 and working, would the person who was working at that

25 desk be visible to anyone walking into that room?

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25

1 Clohessy - Cross

2 A Yes.

3 Q They would not be obstructed, hidden by
4 anything?

5 A No.

6 Q Okay.

7 Now, you testified that the only other
8 person that has the codes for everybody, the computer
9 codes for everybody in the office, is Detective

10 Mounts; is that correct?

11 A That's correct.

12 Q Okay.

PD020105.TXT

13 *And do you know whether or not Detective*

14 *Mounts was working on November 28th?*

15 *A No, I don't.*

16 *Q Okay.*

17 *But with those codes, anyone who has*
18 *that code can go in under another person's name and*
19 *access the IA-Pro; is that correct?*

20 *A It depends on which code it is.*

21 *I believe it's the main access code –*
22 *actually, I'm not sure which code he has. He has one*
23 *code.*

24 *I'm not sure if it's the main access*
25 *code to get into the computer, and then you can log*

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26

1 *Clohessy - Cross*
2 *onto whatever application you want to get into*
3 *thereafter.*

PDO20105.TXT

4 Q *Okay.*

5 *You are not sure?*

6 A *No.*

7 Q *But you know that Mounts has codes?*

8 A *He has the code.*

9 Q *The code?*

10 A *Yes.*

11 *There are different codes, one to get*
12 *into the computer, to start the computer, and then,*
13 *if you want to get into MIS, or the CARS Pro, there*
14 *are different access numbers.*

15 *I think he has the first code to get you*
16 *into the second step in the computer.*

17 Q *Okay.*

18 *Without that code –*

19 A *IA-Pro would be one of them.*

20 Q *He can get into IA-Pro with the code*
21 *that he has?*

22 A *I believe it's the IA-Pro code that he*
23 *has. I'm not a hundred percent.*

24 Q *It is the IA-Pro that he has?*

PDO20105.TXT

25 A Yes.

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27

1 *Clohessy - Cross*

2 Q *With respect to your automobile that you*
3 *had, you said there was an E-ZPass attached to the*
4 *car, correct?*

5 A Yes.

6 Q *And that E-ZPass that is attached to the*
7 *car, I assume is attached with Velcro strips to the*
8 *windshield?*

9 A Yes.

10 Q *That E-ZPass can be pulled off and*
11 *detached from the automobile, correct?*

12 A Yes.

13 Q *If that E-ZPass is pulled off and*
14 *detached, it can be used by any other automobile,*
15 *correct?*

PDO20105.TXT

16 A *Correct.*

17 Q *Okay.*

18 *You also testified that you and*

19 *Detective Dones are the only two people that had keys*

20 *to the automobile, correct?*

21 A *That's correct.*

22 Q *Does the boss have a copy of the key?*

23 A *At that time?*

24 Q *Yes.*

25 A *I don't believe so, no.*

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28

1 *Clohessy - Cross*

2 Q *Did a Sergeant have a copy of the key?*

3 A *I don't believe so.*

4 Q *Did anyone else have a copy of the key?*

5 A *The only one at that time was –*

6 *actually, it was prior to the incident of November*

PDO20105.TXT

*7 28th – was Detective Minaya. He used to be in the
8 Bronx team.*

*9 When he left the Bronx team to go into
10 the Manhattan team, he personally gave me that key.*

11 Q He gave you that key?

12 A Yes.

*13 Q But you don't know whether or not he
14 made a copy of that key, do you?*

15 A No.

16 Q All he did was give you back the key?

17 A That's correct.

18 Q Okay.

*19 Whether or not he made a second copy,
20 you have no way of knowing?*

21 A No.

22 COMM. VINAL: The key to the Chevy

23 Impala, black Chevy Impala?

24 THE WITNESS: Yes.

25 Q Did you say he went to the Bronx team?

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PDO20105.TXT

29

1 *Clohessy - Cross*

2 *A He was originally in the Bronx team, and*
3 *then I forget the time, the date, he left the Bronx*
4 *team and went into the Manhattan team.*

5 *Q Okay.*

6 *Now, let me direct your attention to*
7 *November 26, '03.*

8 *A Yes.*

9 *Q You were in a call-out, and you were in*
10 *the 1st Precinct, correct?*

11 *A Yes.*

12 *Q And that call-out had nothing to do with*
13 *the Vasquez matter, correct?*

14 *A That's correct.*

15 *Q And in the 1st Precinct, you were*
16 *involved in a different matter, a different*
17 *investigation, correct?*

18 *A That's correct.*

PDO20105.TXT

19 Q And you were there with Detective Dones,
20 correct?

21 A Yes.

22 Q And who else were you there with?

23 A I believe it was Sergeant Schumacher.

24 Q Sergeant Schumacher?

25 A Yes.

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30

1 Clohessy - Cross

2 Q Any other members of your team?

3 A There might have been someone from –
4 Detective Minaya might have been there, also.

5 Q In addition to you all, were there other
6 members of the 1st Precinct around, as well?

7 A Yes.

8 Q And where were you physically in the 1st
9 Precinct?

PD020105.TXT

10 A *In the Detective Squad.*

11 Q *In the squad?*

12 A *Yes, that's correct.*

13 Q *And the squad in the 1st Precinct is a*
14 *large, open area, correct?*

15 A *Yes, it is.*

16 Q *And at that time when you were there,*
17 *there were other squad Detectives in the immediate*
18 *vicinity, correct?*

19 A *Yes, there were.*

20 Q *And it is also fair to say that those*
21 *Detectives in that immediate vicinity were able to,*
22 *if they were so inclined, to hear what you all were*
23 *talking about, correct?*

24 A *That's correct.*

25 Q *You weren't sitting there and*

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PDO20105.TXT

1 *Clohessy - Cross*

2 *whispering?*

3 *A I don't believe so.*

4 *Q You were speaking in a regular,*

5 *conversational voice?*

6 *A Yes.*

7 *Q During that time there came a point when*

8 *you learned about this Rachko-Vasquez caper?*

9 *A Yes.*

10 *Q You learned about that at that time,*

11 *correct?*

12 *A Yes.*

13 *Q You learned that there was something*

14 *going on?*

15 *A Yes.*

16 *Q Okay.*

17 *And the discussion about that was had*

18 *out in the open, in regular, conversational voices,*

19 *correct?*

20 *A Yes.*

21 *Q There was no attempt to hide that, that*

PDO20105.TXT

22 this Rachko/Vasquez matter was ongoing, was there?

23 A I don't believe the names came up at

24 that time.

25 Q Okay.

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32

1 Clohessy - Cross

2 A I remember there was conversation that

3 there was something going on out in Queens, and

4 people from our office were responding to it.

5 Q Right.

6 It involved potentially members of the

7 service?

8 A That's correct.

9 Q Involved in a drug rip-off?

10 A Yes, that's correct.

11 Q Okay.

12 COMM. VINAL: The question that came

PDO20105.TXT

13 *out, so the record is clear, that came out in*

14 *conversation, a drug rip-off?*

15 *THE WITNESS: Yes, that there was some*

16 *sort of rip-off out in Queens.*

17 *There were no names that I recall*

18 *mentioned at that point.*

19 *Q But that members of the service might*

20 *potentially be involved in a drug rip-off in Queens,*

21 *correct?*

22 *A No.*

23 *There was some sort of impersonation*

24 *going out in Queens, that members from my office*

25 *responded out there.*

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33

1 *Clohessy - Cross*

2 *Q And your office is the Police*

3 *Impersonation Unit?*

PDO20105.TXT

4 A Yes.

5 Q So at some point that evening out in
6 that squad room, there was information out there that
7 there were either members of the service or there
8 were police impersonators involved in ripping off a
9 drug dealer in Queens?

10 A Yes.

11 Q And that information was openly
12 discussed in front of the entire squad, correct?

13 A Yes.

14 Q It is true, isn't it, that you were not
15 told by the Sergeant that you should not discuss it,
16 keep it confidential, were you?

17 A No.

18 Q How long were you in the 1st Precinct
19 Squad?

20 A I believe we spent a good part of the
21 tour, if not the whole tour, there.

22 Q Okay.

23 And do you ever remember discussing
24 anything more about this matter with Detective Dones?

25 A *That day?* *PDO20105.TXT*

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34

1 *Clohessy - Cross*

2 Q *That day.*

3 A *I really don't remember discussing it*
4 *too much, because I believe we were assisting in*
5 *processing an arrest. That basically took up the*
6 *bulk of our time.*

7 Q *Okay.*

8 *Were there times when you were not with*
9 *Detective Dones when you were in the 1st Precinct,*
10 *when you were in another area of the 1st Precinct?*

11 A *I'm sure there were, yes.*

12 Q *Okay.*

13 *The Sergeant you were with, again, was*
14 *who?*

15 A *Schumacher.*

PDO20105.TXT

16 *Q Schumacher?*

17 *A Yes.*

18 *Q Were there times when you were not with*
19 *Schumacher, Schumacher was with Dones?*

20 *A I'm sure there were, yes.*

21 *Q With respect to your duties, your work*
22 *in the command, does there ever come a time when,*
23 *pursuant to your duties, you scroll through the logs,*
24 *the IA-Pro logs, to get an idea of what is going on*
25 *with respect to police impersonations in other*

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35

1 *Clohessy - Cross*

2 *commands?*

3 *A At times, yes.*

4 *Q You go through these logs oftentimes*
5 *when you have no particular case, which causes you to*
6 *go to that particular log, do you?*

PDO20105.TXT

7 A *At times, yes.*

8 Q *And you do that to educate yourself*
9 *about the overall picture out there in IAB world,*
10 *correct?*

11 A *No, not really.*

12 Q *Okay.*

13 *Why do you go through the logs?*

14 A *Basically, to see what's going on*
15 *concerning the police impersonations.*

16 *Those logs are categorized in different*
17 *types. It could be a misconduct or a force type*
18 *complaint, or a corruption type of complaint.*

19 *Those type of logs don't interest me.*

20 *It is the information type logs that interest me.*

21 Q *My point is, there are oftentimes in the*
22 *legitimate pursuit of your duties that you will call*
23 *up logs on IA-Pro when you might not have any*
24 *specific investigation concerning those logs; isn't*
25 *that true?*

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PD020105.TXT

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36

1 *Clohessy - Cross*

2 *A I would say I don't go through those*
3 *logs just for curiosity.*

4 *If it doesn't concern me, I'm not going*
5 *to pull up the logs, to see what's going on in the*
6 *Department.*

7 *Q Okay.*

8 *What about to familiarize yourself as to*
9 *what is going on?*

10 *A If it's categorized as an information,*
11 *intelligence type log, possible I would go look, and*
12 *see what's going on.*

13 *Q Even though you may not have a specific*
14 *case on the subject matter of that log, correct?*

15 *A That's correct, yes.*

16 *Q Okay.*

17 *Now, you testified that sometimes your*
18 *cases sit on your desk, sit out on your desk,*

PDO20105.TXT

19 correct?

20 A That's correct.

*21 Q When they sit out on your desk, they are
22 available to anyone who wants to come over and look
23 at them?*

24 A Yes.

25 Q Did you ever happen to notice whether or

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Q

37

1 Clohessy - Cross

*2 not Detective Dones had kept his codes on a piece of
3 paper on his bulletin board on his desk; did you ever
4 have to observe that?*

5 A No.

6 Q Okay.

*7 Do you know where Detective Dones kept
8 his codes?*

9 A No.

PDO20105.TXT

10 *Q How long have you worked with Detective*

11 *Dones?*

12 *A It was about a year-and-a-half.*

13 *Q A year-and-a-half?*

14 *A Yes.*

15 *Q During that entire time working with him*

16 *for the year-and-a-half, have you ever had a question*

17 *about his integrity?*

18 *A No.*

19 *Q Have you ever found him to violate*

20 *departmental policy regarding confidential*

21 *information? Have you ever seen him do that?*

22 *A No.*

23 *MR. KARASYK: I have no further*

24 *questions.*

25 *Thank you, Detective.*

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PDO20105.TXT

1 *Clohessy - Redirect*

2 *COMM. VINAL: Redirect?*

3 *MS. BAPTISTE: Yes.*

4 *Thank you.*

5 *REDIRECT EXAMINATION*

6 *BY MS. BAPTISTE:*

7 *Q Back in November of 2003, specifically*
8 *on November 26, 2003, at that time, did you know your*
9 *partner's schedule as far as what days he worked and*
10 *what days he didn't?*

11 *A Whatever I was scheduled to work, he was*
12 *scheduled to work.*

13 *Q Okay.*

14 *So were you scheduled to work on the*
15 *28th?*

16 *A I don't know if it was my actual day off*
17 *or if I took off.*

18 *I believe it might have been my regular*
19 *day off.*

20 *Q So therefore, on the 28th, it would have*
21 *been Dones' regular day off, as well?*

PD020105.TXT

22 A *That's correct.*

23 Q *Now, you indicated on November 26th that*
24 *you and Detective Dones were at the 1st Precinct, and*
25 *then you were processing an arrest; is that right?*

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39

1 *Clohessy - Redirect*

2 A *I believe we were assisting in the*
3 *processing of an arrest.*

4 Q *And approximately what time did you*
5 *leave from processing that arrest?*

6 A *The exact time, I don't recall, but I*
7 *remember we were there the bulk of the tour.*

8 *We were working the late one, three to*
9 *eleven.*

10 Q *And then, after you finished your tour,*
11 *you went home?*

12 A *We went back to the office.*

PDO20105.TXT

13 *COMM. VINAL: 3:00 p.m. to 11:00 p.m.?*

14 *THE WITNESS: Yes.*

15 *COMM. VINAL: November 26th?*

16 *THE WITNESS: Yes.*

17 *Q And you testified about officers*

18 sometimes logging onto the computer and somewhat

19 forgetting that they logged on.

20 *Is it commonplace that someone would log*

21 on and forget it, and no one would turn it off for

22 about two days?

23 *Could someone's IAB log, or the*

24 computer, be open for days and weeks, and no one

25 would turn it off, or were you just referring to a

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40

1 *Clohessy - Redirect*

2 specific period of time, like hours?

3 *A Some applications that you go into, if*

PDO20105.TXT

4 you don't stay on it consistently, I'm talking about

5 a few minutes –

6 Q It would kick out?

7 A Kick you out.

8 I don't believe IA-Pro does that.

*9 I'm not the computer expert, but I don't
10 believe IA-Pro does that.*

11 Is it possible for that to happen?

12 Absolutely.

*13 Q Have you ever seen anything like that
14 happen, where someone just logged on for days and
15 days?*

*16 A I have seen those computers stay on,
17 people walk away from it. It happens all the time.*

*18 Q Now, you indicated that you heard about
19 a call-out, about someone possibly impersonating a
20 Police Officer; is that right?*

21 A Yes.

*22 Q Did you ever receive or hear any
23 specific information that this was an actual member
24 of the service who was involved in this incident?*

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25 *COMM. VINAL: Strictly on November 26th?*

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41

1 *Clohessy - Redirect*

2 *MS. BAPTISTE: Yes.*

3 *COMM. VINAL: We are talking about when*

4 *you were at the 1st Precinct on an unrelated*

5 *matter.*

6 *THE WITNESS: No.*

7 *COMM. VINAL: Did you hear anything*

8 *about an actual MOS being the subject of a*

9 *rip-off?*

10 *THE WITNESS: No.*

11 *Q You only heard about an impersonation,*

12 *someone impersonating?*

13 *A Right.*

14 *Q And there were no names mentioned in*

15 *relation to that impersonation case, right?*

PDO20105.TXT

16 A *At that time and date, no, as far as I*
17 *was concerned.*

18 Q *As far as you were concerned?*

19 A *As far as I was concerned, I didn't hear*
20 *any names at that point.*

21 Q *Okay.*

22 *You also indicated at times you scroll*
23 *through the logs, to see what is going on involving a*
24 *police impersonation case; is that correct?*

25 A *That's correct.*

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42

1 *Clohessy - Redirect*

2 Q *And you also indicated, when asked, that*
3 *you don't scroll through cases that you see marked*
4 *"corruption," they don't interest you?*

5 A *Yes.*

6 Q *Why is that?*

PDO20105.TXT

7 A *Because the logs that are assigned to*
8 *the Impersonation Unit are categorized as*
9 *investigation, and there are other logs that are*
10 *categorized as I and I's, as information type logs*
11 *that don't get assigned to anybody.*

12 *Those are the ones that more interest*
13 *me.*

14 *The corruption cases, I wouldn't have*
15 *any involvement in the corruption cases, so they*
16 *don't interest me.*

17 Q *You wouldn't have any reason, or anyone*
18 *on the impersonation team wouldn't have any reason –*

19 MR. KARASYK: *Objection to "anyone."*

20 COMM. VINAL: *In terms of any reason, I*
21 *will allow it to the extent of what are the*
22 *normal practices and procedures, whether there is*
23 *a reason. I will allow that.*

24 *Any member of your team could go into*
25 *"I" logs, corruption logs?*

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43

1 *Clohessy - Redirect*

2 *That's the question.*

3 *THE WITNESS: I have access to those*
4 *logs.*

5 *COMM. VINAL: The question is, is there*
6 *any reason for a member of your team, the*
7 *impersonation team, to go into that type of log?*

8 *THE WITNESS: No. Not really, no.*

9 *Q And you indicated you do not go through*
10 *those logs for curiosity?*

11 *A No.*

12 *Q Because they don't concern you?*

13 *A That's correct.*

14 *Q Now, you indicated that sometimes there*
15 *are cases on your desk, that you might leave your*
16 *case on your desk.*

17 *The way your office is set up, would*
18 *another member from a different IAB group be allowed*

PDO20105.TXT

19 to just come to your desk, even though he is not in

20 Group 51, would another IAB member be allowed to come

21 and start rummaging around your desk?

22 A There are two other Internal Affairs

23 groups in our building.

24 Q What are those groups?

25 A 53 and 56.

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44

1 Clohessy - Recross

2 Q All right.

3 A Not very often do those other members of
4 the service come into our office.

5 Likewise, I don't go into their office.

6 Q Would you have to notify someone before
7 you just went pulling out files from their file

8 cabinet or their desk?

9 A Yes, you would.

PDO20105.TXT

10 *Q So it would be somewhat unusual for*
11 *someone from another IAB group to come into your*
12 *desk, pull files off, rummaging through, without*
13 *someone knowing or saying something, that would ring*
14 *a bell or something?*

15 *A That's correct.*

16 *Q Thank you.*

17 *MS. BAPTISTE: No further questions.*

18 *RECROSS EXAMINATION*

19 *BY MR. KARASYK:*

20 *Q Detective, someone in your team can do*
21 *that, walk over to your desk and flip open your file?*

22 *A Yes.*

23 *Q That wouldn't raise any great alarm,*
24 *would it?*

25 *A No.*

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PDO20105.TXT

1 *Clohessy - Recross*

2 *Q Isn't it also true, Detective, that*
3 *there are some impersonation cases that involve*
4 *members of the service that do get classified as C*
5 *cases?*

6 *A Repeat that?*

7 *Q Yes.*

8 *Aren't there cases involving members of*
9 *the service when the member of the service is*
10 *actually accused of using his badge to commit a*
11 *crime, and you investigate those types of crimes?*

12 *A No.*

13 *Q And when you have cases where there is*
14 *an allegation of a member of the service, or someone*
15 *supposedly being a member of the service, committing*
16 *a crime, you would investigate that; wouldn't you?*

17 *A No.*

18 *In the Impersonation Unit, we do*
19 *impersonators. We don't get involved with members of*
20 *the service at all.*

21 *In the ten-and-a-half years I have been*

PDO20105.TXT

22 in that office, I believe there might be two cases

23 where we discovered that there was an actual law

24 enforcement officer involved.

25 So if the log comes in, and it gets

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Q

46

1 Clohessy - Recross

2 assessed down on Hudson Street, for the most part,

3 the cases that we are going to get are going to be

4 impersonators, not members of the service.

5 Q Okay.

6 Let me ask you this question.

7 Is there any prohibition that you are

8 aware of that would prevent you from logging onto

9 IA-Pro and accessing a C case?

10 A None.

11 MR. KARASYK: Thank you.

12 No further questions.

PDO20105.TXT

13 *I'm sorry, I have another question.*

14 *Q On the night of November 26th, after*
15 *your tour was over, what did you and Dones do?*

16 *A I went –*

17 *Q Did you take the car back?*

18 *A I believe we went back to the office,*
19 *and then, at some point in time, it is our – the way*
20 *it works is we would drive back to the 48th Precinct,*
21 *and get in our own personal cars, and go home.*

22 *Q Do you recall whether you did that on*
23 *that night?*

24 *A We got into our own cars and went home.*

25 *Q At the 48th Precinct?*

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1 *Clohessy - Recross*

2 *A Yes.*

3 *Q You left the Department car at the 48th*

PDO20105.TXT

4 Precinct?

5 A Yes.

6 Q The 48th Precinct is in the Bronx?

7 A In the Bronx.

8 MR. KARASYK: Thank you.

*9 COMM. VINAL: You say your tour ended at
10 11:00 p.m., and you went back to the station
11 house?*

*12 THE WITNESS: I don't know exactly what
13 time we got off that night, but I know that at
14 the end of the day, whatever time that was, we
15 left the car at the 48th Precinct and went home.*

*16 COMM. VINAL: Any further questions, Ms.
17 Baptiste?*

18 MS. BAPTISTE: No further questions.

*19 COMM. VINAL: If there are no further
20 questions, you can step down.*

21 You are excused.

22 [Witness excused.]

*23 COMM. VINAL: We will take a
24 three-minute break and proceed to the next*

PDO20105.TXT

25 *witness.*

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2 *(Recess had.)*

3 *COMM. VINAL: Does the Department have*
4 *another witness the call?*

5 *MS. BAPTISTE: Yes. At this time the*
6 *Department calls Sergeant Gregory Garland.*

7 *COMM. VINAL: Please step up.*

8 *If you would face me, and place your*
9 *left hand on the Bible, and raise your right*
10 *hand.*

11 *Do you swear the testimony you are about*
12 *to give will be the truth, the whole truth, and*
13 *nothing but the truth, so help you God?*

14 *THE WITNESS: I do.*

15 *COMM. VINAL: Have a seat.*

PD020105.TXT

16 *P.O. GAMRAT: For the record, please*
17 *state your name, your rank, your shield number*
18 *and your current command.*
19 *THE WITNESS: Sergeant Gregory Garland,*
20 *Shield 4885, assigned to IAB Group 51.*
21 *COMM. VINAL: You need to spell your*
22 *first name and last name.*
23 *THE WITNESS: G-r-e-g-o-r-y,*
24 *G-a-r-l-a-n-d.*
25 *COMM. VINAL: Your witness*

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1 *Garland - Direct*
2 *DIRECT EXAMINATION*
3 *BY MS. BAPTISTE:*
4 *Q Sergeant Garland, how long have you been*
5 *a member of the New York City Police Department?*
6 *A Twenty-one years.*

PD020105.TXT

7 *Q And where are you currently assigned?*

8 *A I'm assigned to Internal Affairs Group*

9 *51.*

10 *Q How long have you been assigned to*
11 *Internal Affairs Group 51?*

12 *A Over four years.*

13 *Q And what is your position there?*

14 *A I'm a Sergeant.*

15 *Q Please describe your duties and*
16 *responsibilities.*

17 *A A Sergeant assigned to the Bronx team.*
18 *We handle all police impersonation robberies that*
19 *occur within the city.*

20 *Q Are you also in charge of assigning cars*
21 *to specific members of your team?*

22 *A Yes. We have – besides a car assigned*
23 *to me, we have cars assigned to the Bronx team.*

24 *Q And who was assigned to Car No. 169?*

25 *A Officially, it is assigned to Detective*

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▣

50

1 Garland - Direct

2 Clohessy, of the Bronx team.

3 Q And who were the people who had keys to
4 the car?

5 A During my time there, people who had
6 keys to the car were Detective Clohessy, Detective
7 Minaya and Detective Dones.

8 Q That would be November, 2003?

9 A 2003. It would be Clohessy and Dones in
10 2003.

11 I'm not sure if Minaya still had keys to
12 the car, but one time he did. He has since
13 transferred to the Manhattan team.

14 Q Is there a Department policy as far as
15 copying keys to a vehicle?

16 A I don't know if there is a policy.

17 Q Are the Detectives allowed to use the
18 car for personal errands?

PDO20105.TXT

19 A No.

20 Q When a car is assigned to a Detective or
21 a team, what are they supposed to use that car for?

22 A That car is supposed to be used for
23 police business.

24 Q Only?

25 A Only.

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51

1 Garland - Direct

2 Q So therefore, checking out something an
3 officer or investigator might have been interested
4 in, but it wasn't police business, he is not supposed
5 to use that vehicle?

6 A It's supposed to be used for official
7 police business only.

8 Q And where was the car supposed to be
9 stored?

PDO20105.TXT

10 A *The car was supposed to be stored at the*
11 *48th Precinct.*

12 Q *Were officers allowed to store the*
13 *vehicle at their home at all?*

14 A *No.*

15 Q *So, to the best of your knowledge, on*
16 *November 26, 2003, after Detective Clohessy's tour*
17 *was over, to the best of your knowledge, the car was*
18 *being stored at the 48th Precinct?*

19 A *Right.*

20 Q *And it would be, again, back in use when*
21 *he came off his RDO, when his next day of work would*
22 *be?*

23 A *Yes.*

24 Q *So if his RDO was on the 28th, there*
25 *would be no reason for the car to have been used, or*

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PD020105.TXT

1 *Garland - Direct*

2 *moved from the 48th Precinct?*

3 *A Correct.*

4 *Q Sergeant Garland, do you have a personal*
5 *computer code?*

6 *A For the Department computer?*

7 *Q Yes.*

8 *A Yes.*

9 *Q And that personal computer code is a*
10 *separate code from your tax code, correct?*

11 *A Correct.*

12 *Q And how many people know your computer*
13 *code?*

14 *A Just myself.*

15 *Q Why is that?*

16 *A Because it's assigned to me.*

17 *Q Were you taught somewhere not to give*
18 *out your computer code?*

19 *A Yes.*

20 *Q You were aware it was a procedure not to*
21 *give out your computer code?*

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22 A Yes.

23 *COMM. VINAL: Did you say "put out"?*

24 *MS. BAPTISTE: Give out your computer*

25 *code.*

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D

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1 *Garland - Direct*

2 Q *So in your time at Internal Affairs,*

3 *approximately how many people have you let use your*

4 *computer code to log onto your computer?*

5 A *No one.*

6 Q *Is it commonplace, in your experience,*

7 *in your four years where you would be on the*

8 *computer, and someone might ask you to look up*

9 *something under your code for them?*

10 A *Yes.*

11 Q *Is it commonplace that you have ever*

12 *used someone else's code? Have you ever used someone*

PD020105.TXT

13 else's code to look into a computer?

14 A No.

15 Q Why not?

16 A I have my own code.

17 Q Is it Department procedure that you are
18 aware of that after someone logs into the computer,
19 they are instructed, or is it Department policy that
20 they should log off immediately afterward, after they
21 finish their use of the computer?

22 A That's Department procedure, yes.

23 Q Okay.

24 And Sergeant, is there an E-ZPass in Car
25 No. 69?

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1 Garland - Direct

2 A Yes.

3 Q Is it commonplace, in your four years,

PDO20105.TXT

4 that an E-ZPass from one car would be switched to

5 another car?

6 A No, every car has their own E-ZPass.

7 Q Each car keeps their own E-ZPass?

8 A Yes.

9 Q Is there any switching of E-ZPasses

10 between cars?

11 A Not that I'm aware of.

12 Q So there is a specific E-ZPass assigned

13 to each specific car?

14 A Correct.

15 Q Sergeant, were you working on November

16 28, 2003?

17 A What day of the week was that?

18 Q That would be a Friday.

19 A No, I was off. It's my regular day off.

20 Q And you don't have access to anyone

21 else's computer code, correct?

22 A No.

23 Q Sergeant, how often have you looked up a

24 case not involving your group in the IA-Pro log?

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25 A *How often?*

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▀

55

1 *Garland - Direct*

2 Q *Yes.*

3 A *I look at logs just about every day.*

4 Q *Do you look at logs that may involve*
5 *investigations outside of your department?*

6 A *Yes.*

7 *COMM. VINAL: Outside of Group 51?*

8 *MS. BAPTISTE: Yes.*

9 A *Yes.*

10 Q *Why do you do that?*

11 A *Well, for a few different reasons.*

12 *Curiosity. Sometimes, although the heading of the*
13 *log will say something, sometimes inside the log is*
14 *something else.*

15 *I look at a lot of logs every day, not*

PDO20105.TXT

16 every day, but when I do log on, I look at the logs.

17 Q So if it's a case labeled "corruption,"

18 would you look at that case log?

19 A Yes.

20 Q Have you ever looked up information

21 involving Detective Vasquez?

22 A Yes.

23 Q On what date did you look up any

24 information involving Detective Vasquez?

25 A I don't remember the exact date.

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Q

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1 Garland - Direct

2 Q But you know you were not working on

3 November 28th; is that correct?

4 A Correct, I wasn't working that day.

5 Q When you looked at that case involving

6 Vasquez, did you –

PDO20105.TXT

7 *COMM. VINAL: The log, correct?*

8 *THE WITNESS: Yes.*

9 *COMM. VINAL: Is that what you are*

10 *accessing, a log?*

11 *THE WITNESS: Yes.*

12 *COMM. VINAL: Just for the record.*

13 *THE WITNESS: Yes.*

14 *Q Did you also look up Vasquez and Rachko?*

15 *A Whatever was in the log, I read.*

16 *Q When you did those things, whose*

17 *computer code did you use?*

18 *A I used my own code.*

19 *Q Was there ever a time when you asked*

20 *Detective Dones to use his code to look up that*

21 *information?*

22 *A No.*

23 *Q Was there a time that Detective Dones*

24 *was on the computer and you, while he was on the*

25 *computer, used the computer to look up that*

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1 *Garland - Cross*

2 *information?*

3 A *No.*

4 Q *Thank you.*

5 *MS. BAPTISTE: No further questions.*

6 *COMM. VINAL: Cross-examination.*

7 *CROSS-EXAMINATION*

8 *BY MR. KARASYK:*

9 Q *Sergeant, good morning.*

10 A *Good morning.*

11 Q *Sergeant, you said in November of '03*

12 *the only three people that had keys to the car were*

13 *Dones, Minaya and Clohessy, correct?*

14 A *Yes.*

15 Q *Okay.*

16 *And in November, November 26, '03, you*

17 *were in the 1st Precinct that night?*

18 A *Yes.*

PDO20105.TXT

19 Q *And Minaya was with you that night?*

20 A *Yes.*

21 Q *And Dones?*

22 A *Yes.*

23 Q *And Clohessy?*

24 A *Yes.*

25 Q *Okay.*

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▯

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1 *Garland - Cross*

2 *And it is true, Sergeant, is it not,*

3 *that there came a time, while you were there that*

4 *night, when you learned about this Queens drug*

5 *rip-off by Vasquez and Rachko, correct?*

6 A *Yes.*

7 Q *And you learned about that while you*

8 *were in the 1st Precinct, correct?*

9 A *I don't know if I was in the 1st*

PDO20105.TXT

10 Precinct at that time.

11 Sometime that night I learned about it,

12 yes.

13 Q Okay.

14 And you learned that members of the

15 service were involved, correct?

16 A Correct.

17 Q And that information was discussed among

18 the members of your team, correct?

19 A Yes.

20 Q And there was no attempt to hide that

21 information, was there?

22 A No.

23 Q There was no attempt to indicate that

24 that was confidential information, was there?

25 A No.

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1 *Garland - Cross*

2 *Q As a matter of fact, at some point*
3 *during that night, you understood that Rachko and*
4 *Vasquez had been arrested; isn't that true?*

5 *A I don't know if I knew Vasquez was*
6 *arrested. I knew Rachko had been arrested.*

7 *Q You knew Vasquez had been with him,*
8 *right?*

9 *A I'm sorry?*

10 *Q You knew that Vasquez was also part of*
11 *that investigation?*

12 *A Yes.*

13 *Q That matter was freely and openly*
14 *discussed with the members of your team in the 1st*
15 *Precinct?*

16 *A Yes.*

17 *Q It was discussed in the squad room,*
18 *correct?*

19 *A It was discussed that night. I don't*
20 *know if it was exactly in the squad room.*

21 *Q It was openly discussed?*

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22 A Yes.

23 Q Nothing confidential, hidden, about it?

24 A No.

25 Q Did there ever come a time when you

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1 *Garland - Cross*

2 *discussed that information with Detective Dones, when*

3 *he indicated to you that he knew Vasquez?*

4 A Yes.

5 Q Okay.

6 *Tell the Court what transpired, what*

7 *Detective Dones said to you, and how he said it to*

8 *you, how it came out that he said it to you.*

9 A Well, we mentioned the guy's name,

10 *Vasquez, and I think Detective Dones said Julio.*

11 *I said, "I think that's his name." He*

12 *said, "I know him. I used to work with him." He*

PDO20105.TXT

13 said, I think, "He broke me in."

14 Q He came out and said that to you

15 spontaneously?

16 A Yes.

17 Q You didn't ask him?

18 A No.

19 Q He volunteered?

20 A Yes.

21 Q Was there any attempt on his part to

22 hide his association with Vasquez?

23 A No.

24 Q Now, during the course of that evening

25 when you discussed this matter, you learned that it

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61

1 Garland - Cross

2 was a police impersonation case, correct?

3 A Yes.

PDO20105.TXT

4 *Q Your command, Group 51, does police*
5 *impersonation cases, correct?*

6 *A Yes.*

7 *Q Okay.*

8 *How long have you known Detective Dones?*

9 *A I've known him as long as he has been in*
10 *Group 51.*

11 *Q And could you tell us your opinion of*
12 *him as a Police Officer.*

13 *A I have a good opinion of him.*

14 *Q Have you evaluated him?*

15 *A Yes, I have.*

16 *Q Do you remember what your last*
17 *evaluation was of him?*

18 *A I gave him a good evaluation.*

19 *Q 4, 4.5?*

20 *A If that's what it was.*

21 *A minimum of 4.*

22 *Q Okay.*

23 *Have you ever had any integrity issues*
24 *with Detective Dones?*

PDO20105.TXT

25 A No.

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1 *Garland - Cross*

2 Q *Now, you also testified that the*
3 *automobile 169 had an E-ZPass, correct?*

4 A Yes.

5 Q *And it is true, is it not, that that*
6 *E-ZPass is located on the windshield of that*
7 *automobile?*

8 A Yes.

9 Q *It is attached to the windshield of that*
10 *automobile by Velcro strips?*

11 A Yes.

12 Q *And it is true, is it not, that it could*
13 *be taken off of the windshield, correct?*

14 A Sure.

15 Q *It could be taken off, and if it is*

PDO20105.TXT

16 taken off, anyone in any other automobile can use

17 that E-ZPass?

18 A Yes.

19 Q Merely because it was used at a specific

20 time, there is no guarantee that the automobile that

21 was used with it was 169; isn't that true?

22 A I guess you could say that's correct.

23 Q Okay.

24 Now, you said that you access IA-Pro and

25 look at logs every day, correct?

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1 Garland - Cross

2 A Yes.

3 Q Almost every day?

4 A Yes.

5 Q You do that to acquaint yourself with

6 what is going on in IAB world?

PDO20105.TXT

7 A Yes.

8 Q *That is information you want to know, as*
9 *an investigator?*

10 A Yes.

11 Q *You look at all logs that are available*
12 *to you?*

13 A *I have access to all logs.*

14 Q *It would be nothing for you to look at a*
15 *C log, as well as a misconduct log, would it?*

16 A Yes.

17 Q *Okay.*

18 *Let me ask you this.*

19 *With respect to the accessing of the*
20 *logs, do you know whether or not the IA-Pro program*
21 *is one that has to be logged out of in order to log*
22 *off of it; or does it automatically kick you out*
23 *after a certain period of time?*

24 A *I don't know if it kicks you out after a*
25 *certain amount of time. I don't believe it does.*

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1 *Garland - Cross*

2 *Q Okay.*

3 *If you log onto IA-Pro, and then forget*
4 *to log off, IA-Pro would be accessible on that*
5 *machine for as long as that machine is operating,*
6 *until someone logs it off, correct?*

7 *A Yes, that's correct. As far as I know,*
8 *that's correct.*

9 *Q Okay.*

10 *Sergeant, isn't it true that there are*
11 *times when, for whatever reason, members of the*
12 *group, Group 51, forget to log off of IA-Pro, and*
13 *IA-Pro stays on their machine?*

14 *A Yes.*

15 *Q And when that occurs, anyone in Group 51*
16 *can walk over to a particular machine where IA-Pro is*
17 *up and access logs through IA-Pro, correct?*

18 *A Yes.*

PDO20105.TXT

19 Q *And when they access IA-Pro through that*
20 *particular machine, when you run a printout of that*
21 *particular log, it would show that it was accessed*
22 *under a particular Detective's ID, even if that*
23 *Detective was not actually the one who was accessing*
24 *the log; isn't that true?*

25 A *You lost me.*

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▀

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1 *Garland - Cross*

2 Q *A convoluted question?*

3 A *Yes.*

4 Q *I want you to assume that a Detective*
5 *has logged onto IA-Pro and has failed to log off.*

6 A *Yes.*

7 Q *He has left the command.*

8 A *Okay.*

9 Q *He has left his computer on, and IA-Pro*

PDO20105.TXT

10 is still up.

11 A Okay.

12 Q Isn't it a fact, if another Detective

13 were to walk over to that computer, and access a log,

14 he would have no problem doing that?

15 A Correct.

16 Q Isn't it also true, under those

17 circumstances, if a printout was run of who accessed

18 that log, it would show the ID of the Detective who

19 failed to log out?

20 A Yes.

21 Q And there would be no way of knowing

22 that it was another Detective who actually did that

23 access; isn't that true?

24 A Correct.

25 Q All you would have is the ID who logged

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Q

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1 *Garland - Cross*

2 *on originally and forgot to log off?*

3 A Yes.

4 Q You did not work on November 28th,
5 correct?

6 A That was a Friday?

7 Q Yes.

8 A Yes, I was off.

9 Q Okay.

10 MR. KARASYK: I have no further
11 questions.

12 Thank you very much.

13 COMM. VINAL: Any Redirect?

14 MS. BAPTISTE: No further questions.

15 COMM. VINAL: There being no further
16 questions, you can step down.

17 You are excused.

18 (Witness excused.)

19 COMM. VINAL: The Department has another
20 witness to call?

21 MS. BAPTISTE: The Department calls

PDO20105.TXT

22 *Detective Mounts.*

23 *COMM. VINAL: Place your left hand on*

24 *the Bible, raise your right hand.*

25 *Do you swear that the testimony you are*

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1 *Mounts - Direct*

2 *about to give will be the truth, the whole truth,*

3 *and nothing but the truth, so help you God?*

4 *THE WITNESS: I do.*

5 *COMM. VINAL: Please have a seat.*

6 *P.O. GAMRAT: For the record, please*

7 *state your name, spell your first and last name,*

8 *your rank and your shield number, and your*

9 *current command.*

10 *THE WITNESS: Donald P. Mounts,*

11 *D-o-n-a-l-d, M-o-u-n-t-s, Detective, Shield 114,*

12 *Internal Affairs Bureau, Group 51.*

PDO20105.TXT

13 *COMM. VINAL: Your witness.*

14 *MS. BAPTISTE: Thank you.*

15 *DIRECT EXAMINATION*

16 *BY MS. BAPTISTE:*

17 *Q Detective, how long have you been a*

18 *member of the New York City Police Department?*

19 *A Nineteen years.*

20 *Q And you are currently assigned to IAB*

21 *Group 51?*

22 *A Yes.*

23 *Q How long have you been assigned to that*

24 *unit?*

25 *A Since March of 2001.*

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1 *Mounts - Direct*

2 *Q Please describe your duties and*

3 *responsibilities at Internal Affairs Bureau 51.*

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4 A *I'm assigned to investigate basically a*
5 *lot of different types of cases.*

6 *My main responsibility is the*
7 *investigation of solicitation, unlawful solicitation,*
8 *by police-affiliated organizations.*

9 *However, I do do specialized cases, such*
10 *as people who make and produce NYPD shields, false*
11 *shields, identification cards.*

12 *I'm also on the Committee of Police*
13 *Affiliated Organizations, run by the First Deputy*
14 *Commissioner, and I'm also the Land Manager for the*
15 *group, as far as the computer access, computer codes.*

16 Q *What does it mean when it says you are*
17 *the Land Manager; what does that mean?*

18 A *I have an all access code for all the*
19 *computers in the office.*

20 *My code allows me to do things behind*
21 *the scene on those computers. I can install*
22 *software, uninstall software. I can update the*
23 *computers with the correct things that they should*
24 *have in them.*

PDO20105.TXT

25 *Plus I handle any real problems we have*

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1 *Mounts - Direct*

2 *with Group 7, which is the computer section of IAB.*

3 *I attend managers meetings, Land*

4 *Managers meetings, on every other Thursday morning.*

5 *They update us on all the new software coming out.*

6 *Q Now, are you also in charge of*

7 *maintaining the computer codes of everyone else in*

8 *the Department, or do you just have access to them?*

9 *A I do not have access to everyone else in*

10 *the Department.*

11 *I only have access to the computer codes*

12 *that were issued to Group 51, when IA-Pro, which is*

13 *the system we use to get on the computer system, came*

14 *on line.*

15 *That was in mid-2001, I believe, is when*

PDO20105.TXT

16 *they came on line.*

17 *I was issued a list of computer codes*

18 *for everyone assigned to Group 51 at that time.*

19 *Q So, specifically referring to November,*

20 *2003, the code numbers you would have had would have*

21 *been for those from 2001?*

22 *A It would contain the computer codes of*

23 *everyone who was assigned to Group 51 on the day I*

24 *was given the list.*

25 *Q So if there was someone who came to your*

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D

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1 *Mounts - Direct*

2 *group afterward, you would not have their computer*

3 *code?*

4 *A No, I would not.*

5 *Q And you indicated that you have an*

6 *actual list of computer codes?*

PDO20105.TXT

7 A Yes.

8 MS. BAPTISTE: I'm going to show you
9 what I would ask be marked as Department's
10 Exhibit 1 for identification.

11 COMM. VINAL: Deem it marked
12 Department's Exhibit 1 for identification.

13 (Document marked Department's Exhibit 1
14 for identification.)

15 COMM. VINAL: Show it to the witness.

16 Q Do you recognize what I'm showing you?

17 A Yes.

18 Q What do you recognize it to be?

19 A This is a copy of the list of computer
20 codes I was given when IA-Pro came on line in 2001,
21 with the actual codes being redacted on it.

22 Q Is that a fair and accurate duplication
23 of the list that you are in possession of?

24 A Yes, it is.

25 MS. BAPTISTE: At this time, I would ask

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1 *Mounts - Direct*
2 *that Department's Exhibit No. 1 –*
3 *COMM. VINAL: I'm a little confused.*
4 *You said the actual codes are deleted?*
5 *THE WITNESS: Yes.*
6 *COMM. VINAL: The actual code numbers?*
7 *THE WITNESS: Yes.*
8 *COMM. VINAL: On the document?*
9 *THE WITNESS: Yes.*
10 *COMM. VINAL: On the document you are in*
11 *possession of?*
12 *THE WITNESS: The copy of the original*
13 *document.*
14 *COMM. VINAL: The one you are holding?*
15 *THE WITNESS: Yes.*
16 Q *Why were the code numbers deleted?*
17 A *For security purposes. Those codes are*
18 *secure codes, and they allow access into the system.*

PDO20105.TXT

19 *COMM. VINAL: I'm just asking for more*

20 *foundation in terms of the relevance of the*

21 *charges.*

22 *Are you looking to match up a specific*

23 *code?*

24 *I heard no reference to the Respondent*

25 *in regard to the list.*

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1 *Mounts - Direct*

2 *MS. BAPTISTE: I'll clarify it.*

3 *COMM. VINAL: All right.*

4 *Q Is Detective Dones' name on that list?*

5 *A No, it is not.*

6 *Q Did you have Detective Dones' code?*

7 *A No, I did not.*

8 *Q Is that a complete list of the codes you*

9 *had in your possession?*

PDO20105.TXT

10 A Yes, it is.

11 Q And Detective Dones' name is not on that
12 list?

13 A No, it is not.

14 Q So therefore, in November of 2003, did
15 you have Detective Dones' computer code?

16 A No, I did not.

17 MS. BAPTISTE: At this time, I would ask
18 that –

19 COMM. VINAL: Before we go further, is
20 it in dispute?

21 You are offering this as a negative,
22 that the Respondent's code was not on the list
23 possessed by the witness?

24 MS. BAPTISTE: Yes.

25 The point would be no one else had

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PD020105.TXT

1 *Mounts - Direct*

2 *access to this code. The only other person who*
3 *had access to the code would be Detective Mounts,*
4 *and even he didn't have the code.*

5 *The only one who had the code would be*
6 *Detective Dones. His partner didn't have it, and*
7 *the only other person in charge of having that*
8 *information didn't even have it.*

9 *COMM. VINAL: Mr. Karasyk, is it in*
10 *dispute, that the Respondent is not on this list*
11 *of codes?*

12 *MR. KARASYK: No, Commissioner, it is*
13 *not.*

14 *COMM. VINAL: Apparently, Mr. Karasyk is*
15 *willing to stipulate to this.*

16 *You have seen it?*

17 *MR. KARASYK: I have seen it.*

18 *Detective Mounts testified that he did*
19 *not have his code.*

20 *COMM. VINAL: This is a list that you*
21 *prepared yourself?*

PDO20105.TXT

22 *THE WITNESS: No.*

23 *COMM. VINAL: It was prepared for you?*

24 *THE WITNESS: Prepared for me.*

25 *COMM. VINAL: Okay.*

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74

1 *Mounts - Direct*

2 *And it contains the names of all the*

3 *members of the group, Group 51, as of November,*

4 *2003?*

5 *THE WITNESS: No, sir, it does not.*

6 *COMM. VINAL: Okay.*

7 *It contains the names of the members who*

8 *you assigned codes to?*

9 *THE WITNESS: No.*

10 *COMM. VINAL: Okay.*

11 *Tell me what the list says.*

12 *THE WITNESS: It contains members who*

PDO20105.TXT

13 *were assigned to Group 51 in 2001.*

14 *Some of those members are the same that*

15 *are there now, some have since left.*

16 *There are no additions other than what*

17 *was on the original list of people who later came*

18 *into the unit.*

19 *COMM. VINAL: It is your testimony that*

20 *the list you have there, prepared for you, is a*

21 *list of the codes of those who were in Group 51*

22 *in 2001, when you joined the unit, correct?*

23 *THE WITNESS: That's correct.*

24 *COMM. VINAL: You said that was March of*

25 *2001?*

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D

75

1 *Mounts - Direct*

2 *THE WITNESS: Yes.*

3 *COMM. VINAL: That is when you had this*

PDO20105.TXT

4 *list prepared?*

5 *THE WITNESS: Yes.*

6 *COMM. VINAL: The members who joined*
7 *Group 51 after that time, you don't have their*
8 *code numbers on your list?*

9 *THE WITNESS: That's correct.*

10 *COMM. VINAL: Okay.*

11 *Apparently, Mr. Karasyk is willing to*
12 *stipulate to that.*

13 *What am I missing?*

14 *MR. KARASYK: I'm willing to say that*
15 *the document speaks for itself. His name is not*
16 *on there.*

17 *I haven't cross-examined him yet.*

18 *COMM. VINAL: The larger issue here is*
19 *whether this witness was aware of the*
20 *Respondent's code.*

21 *MS. BAPTISTE: Yes.*

22 *COMM. VINAL: I didn't hear that as a*
23 *foundation question.*

24 *Were you aware of Detective Dones' code*

PDO20105.TXT

25 *number to access the IA-Pro computer system?*

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▀

76

1 *Mounts - Direct*

2 *THE WITNESS: I know he has a code.*

3 *COMM. VINAL: Are you aware of what the*
4 *number was?*

5 *THE WITNESS: No.*

6 *COMM. VINAL: You have never been aware*
7 *of that?*

8 *THE WITNESS: No.*

9 *COMM. VINAL: It is not on your list*
10 *there, the list that was prepared in 2001?*

11 *THE WITNESS: Right.*

12 *COMM. VINAL: It was never updated?*

13 *THE WITNESS: Never updated at any time.*

14 *COMM. VINAL: There is a larger issue,*
15 *whether this witness – he is talking about a*

PDO20105.TXT

16 *list that has been handed to him that was*
17 *prepared in 2001.*

18 *He indicated, as new members joined*
19 *Group 51, the list was not updated with their*
20 *code numbers on it.*

21 *THE WITNESS: That's correct, sir.*

22 *COMM. VINAL: And that is why Detective*
23 *Dones' name is not on your list, he joined the*
24 *unit after 2001?*

25 *THE WITNESS: He was assigned a code*

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▯

77

1 *Mounts - Direct*

2 *while he was in another group, and therefore, I*
3 *wouldn't have that code on my list.*

4 *COMM. VINAL: When he joined Group 51,*
5 *your group, that list was not updated to include*
6 *his security access?*

PDO20105.TXT

7 *THE WITNESS: That's correct.*

8 *COMM. VINAL: And your testimony is, you*
9 *have never asked the Respondent, either, for his*
10 *access code, correct?*

11 *THE WITNESS: Not to my knowledge, no,*
12 *sir.*

13 *COMM. VINAL: I hesitate to take paper*
14 *into evidence, unless it proves a certain point.*

15 *This was used to refresh the witness'*
16 *recollection when he joined Group 51 in 2001.*

17 *You had this list prepared, members who*
18 *were already there?*

19 *THE WITNESS: It was given to me by the*
20 *computer section, yes.*

21 *COMM. VINAL: That contained the access*
22 *codes, but it does not contain Detective Dones'*
23 *access code?*

24 *THE WITNESS: Yes.*

25 *COMM. VINAL: So stipulated.*

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1 *Mounts - Direct*

2 *I don't need the document.*

3 *He is stipulating that Detective Dones*
4 *was not in Group 51 in 2001.*

5 *He came to your group later?*

6 *THE WITNESS: Yes.*

7 *COMM. VINAL: And this list relates to*
8 *2001 only.*

9 *That is the witness' testimony.*

10 *What he is testifying to is that*

11 *Detective Dones' name is not on that list.*

12 *The reason is he wasn't a member of*
13 *Group 51 in 2001, correct?*

14 *THE WITNESS: Correct.*

15 *Q Have you ever had Detective Dones'*
16 *computer number?*

17 *A No.*

18 *Q Have you ever at any point asked*

PDO20105.TXT

19 Detective Dones to log onto his computer, for you to

20 look up information?

21 A No, I have not.

22 Q Detective Mounts, on November 26th of

23 2003, did you become aware of an incident involving

24 Detective Vasquez?

25 A Yes, I did.

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D

79

1 Mounts - Direct

2 Q Okay.

3 What were the circumstances that made

4 you aware of that?

5 A I was working on that day in Group 51,

6 and we received information of an impersonation

7 robbery case that became a call-out to our group.

8 I was assigned by the Commanding Officer

9 to begin doing computer checks in regards to that

PDO20105.TXT

10 call-out.

11 Other members of the group were sent out
12 on the call-out from my command, and I remained
13 there.

14 Q What other members?

15 A Detective Yacopino and Detective Miles.

16 COMM. VINAL: We need a spelling for
17 Yacopino.

18 THE WITNESS: Y-a-c-o-p-i-n-o, Anthony
19 is his first name.

20 Detective Edward Miles, M-i-l-e-s.

21 They were sent out.

22 I don't remember whether Detective Dones
23 was working that night, but it's a possibility
24 that he was, and he was already out on something
25 else.

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PDO20105.TXT

1 *Mounts - Direct*

2 *COMM. VINAL: I don't believe that was*

3 *part of the question.*

4 *Listen carefully to the question.*

5 *Next question.*

6 *Q Detective Mounts -*

7 *COMM. VINAL: Were you called out; did*

8 *you go out to Queens?*

9 *THE WITNESS: I did not go out to*

10 *Queens.*

11 *COMM. VINAL: Yacopino and Miles?*

12 *THE WITNESS: They were sent out on the*

13 *call-out.*

14 *COMM. VINAL: Go ahead.*

15 *Q Based upon the call-out, it was about an*

16 *impersonation, not a member of the service?*

17 *A Originally, yes.*

18 *Q You came to learn later that it involved*

19 *a member of the service?*

20 *A Yes.*

21 *Q When did you learn that?*

PDO20105.TXT

22 A *I believe the suspicion came in within*

23 *an hour or two after the original case came in, that*

24 *there may be a member of the service involved.*

25 Q *Turning your attention specifically –*

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81

1 *Mounts - Direct*

2 *MS. BAPTISTE: Let me go back.*

3 Q *You said about an hour or so later,*

4 *information may have come out that involved a member*

5 *of the service?*

6 A *I believe a former member of the*

7 *service, the information came out about approximately*

8 *an hour later, that he was involved.*

9 Q *Information about a former Detective*

10 *Rachko?*

11 A *Yes, that's correct.*

12 Q *Was there any information out there that*

PDO20105.TXT

13 *you heard involving Detective Vasquez?*

14 *A I believe before I left that evening to*

15 *go home, at some point, that name did come up. It*

16 *did come up in the investigation that was given to me*

17 *by my supervisor.*

18 *Q What tour were you working that day?*

19 *A I was working from 9:45 a.m. until six*

20 *p.m.*

21 *That was my scheduled tour of the day.*

22 *Q So at some point before you left that*

23 *evening, you –*

24 *A I actually worked later that evening, I*

25 *think until 1:00 in the morning.*

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D

82

1 *Mounts - Direct*

2 *COMM. VINAL: Can you estimate what time*

3 *it was, if you can, that you learned the name*

PDO20105.TXT

4 *"Vasquez" was involved in the Queens call-out?*

5 *THE WITNESS: It could have been as late*
6 *as eleven or twelve that evening. I'm not sure*
7 *exactly what time.*

8 *I believe I was made aware that there*
9 *was a member of the service involved, but I don't*
10 *know the exact time.*

11 *Q In your years working in the Internal*
12 *Affairs Bureau, what, if any, procedures are there to*
13 *ensure that information regarding an investigation*
14 *does not leak out to other members of the service?*

15 *MR. KARASYK: Commissioner, I'm going to*
16 *object. This is irrelevant.*

17 *We already had voluminous testimony on*
18 *it.*

19 *COMM. VINAL: I will allow questions of*
20 *the witness regarding various types of logs that*
21 *have been testified to by other witnesses.*

22 *Let's make it more specific.*

23 *I will allow you to ask any questions*
24 *regarding what members are allowed to access, not*

PDO20105.TXT

25 *access.*

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▀

83

1 *Mounts - Direct*

2 *By "members," you mean individuals*

3 *assigned to Group 51?*

4 *Q Are members assigned to Group 51 allowed*

5 *to generally peruse the internal investigation files*

6 *of any other Internal Affairs Bureaus?*

7 *COMM. VINAL: Bureaus?*

8 *MS. BAPTISTE: A different group.*

9 *COMM. VINAL: A different group.*

10 *MS. BAPTISTE: A different Internal*

11 *Affairs group.*

12 *A Specifically, we investigate*

13 *impersonations, therefore, all the members are*

14 *admonished to peruse files that are on the computer*

15 *in regards to our cases.*

PDO20105.TXT

16 *There are certain instances where other*
17 *groups are assigned cases that we have things to do*
18 *with, and therefore, we would actually access those*
19 *logs, to read them.*

20 *That is only reading them on the screen,*
21 *when you actually look at them.*

22 *Different members within the unit have*
23 *different responsibilities when it comes to that.*

24 *Basically, the Sergeants must peruse the*
25 *logs, to find out what happened overnight, to see if*

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D

84

1 *Mounts - Direct*
2 *it concerns anything within our group that we haven't*
3 *been notified of.*

4 *The Lieutenant very rarely goes onto the*
5 *system to do it.*

6 *And then, as the person who assigns*

PDO20105.TXT

*7 cases within the office, I peruse every file on the
8 IA-Pro system, to see if there are any cases that
9 have anything to do with us that we have not been
10 notified of.*

11 COMM. VINAL: Let me ask you this.

*12 Is there a written IAB procedure that is
13 given to Detectives working in Group 51 regarding
14 what they can and should access, what they should
15 not access, with regard to logs of other groups,
16 et cetera?*

*17 THE WITNESS: No, sir, there is nothing
18 written.*

*19 Q Are the Detectives given any kind of
20 oral warning that they should or should not go into
21 the investigative file of another Internal Affairs
22 group?*

23 MR. KARASYK: Objection.

*24 COMM. VINAL: I will allow it regarding
25 training.*

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PDO20105.TXT

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85

1 *Mounts - Direct*

2 *Are you familiar with any training that*
3 *is conducted to the members of internal 51, or*
4 *when they join Group 51?*

5 *THE WITNESS: Yes, I am.*

6 *COMM. VINAL: What training do they*
7 *receive regarding accessing computer logs?*

8 *THE WITNESS: When you attend –*

9 *COMM. VINAL: Not how to do it, what*
10 *they are allowed to access.*

11 *THE WITNESS: When you attend the*
12 *Internal Affairs investigation course, part of*
13 *that three-week course is – I'm sorry, two-week*
14 *course – is on computers and the use of IA-Pro.*

15 *When I attended that course myself, the*
16 *instructor specifically told us, you only are*
17 *allowed to access the logs that concern your*
18 *group. You do not go through the system and go*

PDO20105.TXT

19 *through everybody else's stuff, unless there is a*
20 *particular check mark on the machine which*
21 *doesn't allow you access.*

22 *If you wish to practice going into logs,*
23 *you can check mark, and place that check mark on*
24 *the machine, and it does not allow you access to*
25 *the whole system, only to a training part of it.*

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D

86

1 *Mounts - Direct*

2 *Then you can go into those logs and look*
3 *at them.*

4 *But he told us specifically, once you*
5 *are in the active system, you are not allowed to*
6 *access any logs that do not concern your group.*

7 *Q And that was your training?*

8 *A That's my training.*

9 *Q Okay.*

PDO20105.TXT

10 *When was that?*

11 *A In 2001, I went through the IIC School.*

12 *Q Turning your attention to November 28,*
13 *2003.*

14 *A Yes.*

15 *Q That would be a Friday. Were you*
16 *working that day?*

17 *A Yes, I was.*

18 *Q Did you have an opportunity on that day*
19 *to access the computers?*

20 *A Yes, I did.*

21 *Q What were you doing with the computers?*

22 *A Normally, my duty as far as perusing the*
23 *logs, and assigning cases from those logs.*

24 *Q Did you have an occasion to look up a*
25 *case involving Julio Vasquez?*

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PDO20105.TXT

1 *Mounts - Direct*

2 *A If it was on the first screen that you*
3 *come on, and had anything to do with an*
4 *impersonation, yes.*

5 *I did not specifically –*

6 *COMM. VINAL: The question is your*
7 *present recollection.*

8 *On November 28th, did you access a log*
9 *that had Julio Vasquez's name in it?*

10 *That is the question.*

11 *Do you have a present recollection of*
12 *having done that?*

13 *THE WITNESS: No, I do not.*

14 *COMM. VINAL: Is there anything that*
15 *would refresh your recollection?*

16 *THE WITNESS: No, there isn't anything*
17 *that I know of.*

18 *Q But your only use for the computer that*
19 *day would have been looking in the logs, to assign*
20 *cases?*

21 *A That's correct.*

PDO20105.TXT

22 Q *Just so that I'm clear, can you explain*

23 *how a computer system is set up.*

24 *Is there a general first page, and then*

25 *you can go further in depth into it?*

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▯

88

1 *Mounts - Direct*

2 A *Yes, ma'am.*

3 Q *Okay.*

4 *COMM. VINAL: Like an index, the first*

5 *page, index to the logs?*

6 *THE WITNESS: Yes, there is an index*

7 *that lists the log number, and a very short,*

8 *one-line description of the type of case it is,*

9 *such as an impersonation, a referred case, a*

10 *corruption case.*

11 *As that screen comes up, you can look at*

12 *the screen and go through the impersonation*

PDO20105.TXT

13 *cases.*

14 *COMM. VINAL: This is IA-Pro?*

15 *THE WITNESS: Yes.*

16 *COMM. VINAL: The very first page is an*

17 *index?*

18 *THE WITNESS: Yes.*

19 *COMM. VINAL: A little summary, a one*

20 *line summary, regarding the log number and what*

21 *it relates to?*

22 *THE WITNESS: Yes.*

23 *COMM. VINAL: Next question.*

24 *Q And that log can be printed out; is that*

25 *correct?*

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D

89

1 *Mounts - Direct*

2 *A It can be printed, but it can also be*

3 *viewed on the screen.*

PDO20105.TXT

4 *MS. BAPTISTE: I will show you what I*
5 *ask to be marked as Department's Exhibit No. 1.*
6 *COMM. VINAL: This is Department's 2 for*
7 *identification.*
8 *How many pages is this document?*
9 *It appears to be multi-pages.*
10 *MS. BAPTISTE: Eight.*
11 *COMM. VINAL: It will be marked as*
12 *Department's Exhibit 2 for identification.*
13 *(Document marked Department's Exhibit 2*
14 *for identification.)*
15 *COMM. VINAL: Do you recognize that*
16 *document?*
17 *(Witness reviewing document.)*
18 *MR. KARASYK: May I have a minute? I'm*
19 *trying to find it.*
20 *COMM. VINAL: Yes.*
21 *(Pause.)*
22 *COMM. VINAL: Do you recognize what that*
23 *is?*
24 *THE WITNESS: I've never seen it before*

PDO20105.TXT

25 *in my life. I have never seen a document like*

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■

90

1 *Mounts - Direct*

2 *this before.*

3 *COMM. VINAL: Ms. Baptiste, next*

4 *question.*

5 *Q Would that be a printout of how an*
6 *IA-Pro index would look like?*

7 *MR. KARASYK: Objection. He said he had*
8 *never seen it in his life, how would he know?*

9 *COMM. VINAL: Does it look like to you*
10 *that it could be an index from the IA-Pro?*

11 *Is that correct?*

12 *MS. BAPTISTE: Yes.*

13 *COMM. VINAL: Be very specific.*

14 *Provide as much information as possible.*

15 *Does it look like it to you?*

PDO20105.TXT

16 *THE WITNESS: No, this is not an index*

17 *of IA-Pro.*

18 *This is not what I would see when I pull*

19 *up the screen.*

20 *Q Do you know what this is?*

21 *A I know what it is, by looking at it I*

22 *can surmise what it is.*

23 *Q What is it?*

24 *A A usage log of Investigator Dones' usage*

25 *of the IA-Pro system.*

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■

91

1 *Mounts - Direct*

2 *I have never seen it before.*

3 *Q You have never seen a usage log before?*

4 *A No, I have not.*

5 *Q All right.*

6 *COMM. VINAL: Not specifically his, have*

PDO20105.TXT

7 *you ever seen any usage log?*

8 *THE WITNESS: I'm not privileged to that*

9 *information. It's only through the Computer*

10 *System Group 7.*

11 *I have never seen that before, anything*

12 *like that.*

13 *Q At any time, if you needed any*

14 *information, you would use your own code?*

15 *A Yes.*

16 *Q Have you ever used anyone else's?*

17 *A No, ma'am.*

18 *Q Turning your attention to November 28th*

19 *of 2003, you indicated that you were working that*

20 *day?*

21 *A Yes, I was.*

22 *Q Do you remember approximately what time*

23 *you left that day?*

24 *A Left?*

25 *Q Yes.*

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